

DISTRICT COURT OF GUAM  
TERRITORY OF GUAM  
CRIMINAL MINUTES  
SENTENCING

**FILED**

DISTRICT COURT OF GUAM

OCT - 5 2005

CASE NO. CR-04-00055

DATE: 10/5/2005

MARY L.M. MORAN  
CLERK OF COURT

HON. GEORGE D. LLOYD, Designated Judge

Court Reporter: Wanda Miles

Hearing Electronically Recorded: 4:37:05 - 5:00:13

Law Clerk: NONE PRESENT

Courtroom Deputy: Virginia T. Kilgore

CSO: N. Edrosa

\*\*\*\*\* APPEARANCES \*\*\*\*\*

DEFT: HSIN-YU CHEN aka CHANEL CHEN

(X) PRESENT (X) CUSTODY ( ) BOND ( ) P.R.

ATTY : HOWARD TRAPP

(X) PRESENT (X) RETAINED ( ) FPD ( ) CJA APPOINTED

U.S. ATTORNEY: KARON JOHNSON

AGENT:

U.S. PROBATION: MARIA CRUZ

U.S. MARSHAL: W. GRAY / G. PEREZ

INTERPRETER: CHUNG HARRELL

LANGUAGE: MANDARIN/CHINESE

(X) COURT STATES THE APPROPRIATE BASE OFFENSE LEVELS

Base offense level: 12

Total offense level: 12

Criminal History Category: I

NO OBJECTIONS BY THE GOVERNMENT AND DEFENSE

(X) ATTORNEY FOR DEFENDANT ADDRESSES THE COURT:

Argued for a minimal adjustment of 4 points and reserved his right to argue later on appeal for a minor adjustment. Counsel further requested the Court for a judicial recommendation for Victorville and that defendant be incarcerated with defendants Tuyet Mai Thi Phan and Khanh Phuong Nguyen.

(X) DEFENDANT ADDRESSES THE COURT AND APOLOGIZES

( ) GOVERNMENT ADDRESSES THE COURT AND MAKES ITS RECOMMENDATION:

( ) LETTER(S) OF RECOMMENDATION RECEIVED BY THE COURT

NOTES/OTHER MATTERS:

Defense argued his objection to the presentence investigation report. The Court adopted the presentence investigation report and imposed sentence.

( X ) DEFENDANT COMMITTED TO THE BUREAU OF PRISONS FOR A TERM OF THREE YEARS WITH CREDIT FOR TIME SERVED (APPROXIMATELY 308 DAYS).

( X ) COURT RECOMMENDATION TO THE BUREAU OF PRISONS AT VICTORVILLE. THE COURT FURTHER RECOMMENDS THAT DEFENDANT BE INCARCERATED WITH DEFENDANTS TUYET MAI THI PHAN AND KHANH PHUONG NGUYEN.

( X ) UPON RELEASE FROM IMPRISONMENT, DEFENDANT IS PLACED ON SUPERVISED RELEASE FOR A TERM OF THREE YEARS .

THE TERM OF SUPERVISED RELEASE WILL INCLUDE THE FOLLOWING CONDITIONS:

1. DEFENDANT SHALL BE TURNED OVER TO A DULY AUTHORIZED IMMIGRATION OFFICIAL FOR DEPORTATION PROCEEDINGS PURSUANT TO 18 U.S.C § 3583(d), AND WITH THE ESTABLISHED PROCEDURES PROVIDED BY THE IMMIGRATION AND NATURALIZATION ACT UNDER 8 U.S.C. § 1101. AS A FURTHER CONDITION OF SUPERVISED RELEASE, IF ORDERED DEPORTED, SHE SHALL REMAIN OUTSIDE THE UNITED STATES AND SHALL NOT RE-ENTER WITHOUT THE PERMISSION OF THE U.S. ATTORNEY GENERAL. IF DEPORTATION FAILS TO OCCUR AND THE DEFENDANT IS RELEASED FROM CONFINEMENT PENDING FURTHER IMMIGRATION PROCEEDINGS, SHE SHALL IMMEDIATELY REPORT TO THE U.S. PROBATION OFFICE TO BEGIN HER TERM OF SUPERVISED RELEASE.
2. DEFENDANT SHALL NOT COMMIT ANOTHER FEDERAL, STATE, OR LOCAL CRIME.
3. DEFENDANT SHALL NOT UNLAWFULLY POSSESS A CONTROLLED SUBSTANCE AND SHALL REFRAIN FROM ANY UNLAWFUL USE OF A CONTROLLED SUBSTANCE. THE MANDATORY DRUG TESTING CONDITION IS HEREBY SUSPENDED BASED UPON THE COURT'S DETERMINATION THAT THE DEFENDANT POSES A LOW RISK OF FUTURE SUBSTANCE ABUSE.
4. DEFENDANT SHALL SUBMIT TO THE COLLECTION OF A DNA SAMPLE AT THE DIRECTION OF THE U.S. PROBATION OFFICE.
5. DEFENDANT SHALL COMPLY WITH THE STANDARD CONDITIONS OF SUPERVISED RELEASE AS SET FORTH BY THE U.S. SENTENCING COMMISSION AND UNDER 18 U.S.C. § 3583.
6. DEFENDANT SHALL BE PROHIBITED FROM POSSESSION A FIREARM OR OTHER DANGEROUS WEAPON.
7. DEFENDANT SHALL PERFORM 200 HOURS OF COMMUNITY SERVICE UNDER THE DIRECTION OF THE U.S. PROBATION OFFICE.

IT IS FURTHER ORDERED THAT THE DEFENDANT PAY TO THE UNITED STATES A SPECIAL ASSESSMENT FEE OF \$100.00 TO BE PAID IMMEDIATELY AFTER SENTENCING.

PURSUANT TO SECTION 5E1.2(f) OF THE GUIDELINE RANGE, ALL FINES ARE WAIVED SINCE IT HAS BEEN DETERMINED THAT THE DEFENDANT DOES NOT HAVE THE ABILITY TO PAY.

COURT STATES THE JUSTIFICATION OF SENTENCE IMPOSED. DEFENDANT ADVISED OF HER APPEAL RIGHTS. DEFENDANT REMANDED TO THE CUSTODY OF THE U.S. MARSHAL.